III. REMARKS

The specification has been amended to include Applicants' priority claim to Japanese Patent Application Nos. 2002-334023, 2003-096395, and 2003-386594.

Claims 1-10, 12-16, and 18-22 have been amended to improve grammar, and to remove multiple claim dependencies. New claims 23-28 have been added to recite embodiments deleted from the previous claims when multiple claim dependencies were removed.

The present amendment adds no new matter to the above-captioned patent application.

The Examiner requires restriction of the present application to one of the following inventions:

Group I: Claims 1-18, drawn to a product comprising palatinose, classified in class 426, subclass 548; and

Group II: Claims 19-22, drawn to a method of use, classified in class 426, subclass 548.

The Examiner contends that the inventions are distinct from each other and related as product and product of use. The Examiner contends that the two inventions are patentably distinct because palitose, as recited by the invention of Group I has other uses than those of Group II, such as for sustaining mental concentration and attention. The Examiner further contends that the restriction is proper because the inventions have acquired separate status in the art in view of their different classifications, the inventions have acquired a separate status in the art in view of their divergent subject matter, the inventions would require different fields of search, the prior art applicable to one invention would not likely be applicable to both inventions, and the inventions are likely to raise different non-prior art issues under 35 U.S.C. § 101 and/or 112, first paragraph.

Applicants contend that new claims 23-28 belong to Group II. Applicants elect the invention of Group I, claims 1-18, for further prosecution on the merits. While Applicants elect Group I without traverse, Applicants contend that upon allowance of the invention of Group I that the invention of Group II should be rejoined with the allowed claims in accordance with MPEP § 821.04 because the claims of Group II depend upon the claims of Group I, and, therefore, incorporate all of the subject matter of at least one allowed claim.

Questions are welcomed by the below-signed attorney for Applicants.

Respectfully submitted,

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